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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,970	06/22/2001	George Preti	MON-0292	7665

7590 09/02/2003  
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Philadelphia, PA 19103

EXAMINER

LEVY, NEIL S

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 09/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No. <u>887970</u>	Applicant(s) <u>Protr. epl</u>
Examiner <u>MB7C Guy</u>	Group Art Unit <u>76/6</u>

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- 8/7/03
- ☒ Responsive to communication(s) filed on \_\_\_\_\_
  - ☐ This action is FINAL.
  - ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-40 is/are pending in the application.
- Of the above claim(s) 3, 7-28, 30-34, & 38-40 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1, 2, 4-6, 29, 35-37 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 1-40 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for ~~foreign~~ priority under 35 U.S.C. § 119(a)-(d) e
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 2
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

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Applicant's election without traverse of Group I species PAC and cross adapter in Paper No. 5 is acknowledged.

Claims 3, 7-28, 30-34, 38-40 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no object identifying where the effective amount is added to or how.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 29, 35, 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Pierce et al '95.

The instant cross-adapter, in effective amounts was disclosed (p.410, 2<sup>nd</sup> column, last paragraph the ester of 3 methyl 2-hexenoic acid, suggested as underarm deodorant, to ameliorate malodors of animal waste (sweat). The odor is reduced, thus, the cross-adapter acts as both as odor-reducer and cross adapter, when applied, as

anticipated by claim 29, since Pierce applies in a bottle, claims 35, 36 also apply in a bottle; a locus.

Claims 1, 2, 4-6, 29, 35-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Wysocki et al - 2000.

Wysocki – abstract 450 – applied 1% PAC to urine slurry and effected odor-reduction, and perception, with added bismuth and @: 25% homologs of the instant cross-adapter, the 5 or 8 C ester?

Claims 1, 2, 4-6, 29, 35-37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The ester, unspecified in not within the skill of one in the art to determine with out excessive experimentation, while the instant forms are ethyl esters as effective agents, other forms would require testing of a sufficient number of people to provide a sufficiently powerful statistical paradigm to know, for any tested ester, against each animal waste type, there would be effective cross adaptation.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703) 308-2412. The examiner can normally be reached on Tuesday through Friday 7 AM to 5:30 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (703) 308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Levy/LR  
August 29, 2003

A handwritten signature in black ink, appearing to read "Neil S. Levy". The signature is written in a cursive, flowing style.

NEIL S. LEVY  
PRIMARY EXAMINER